

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

DALE JUSTICE, ET AL.,)	
)	
Plaintiffs,)	Case No. 7:19CV00062
)	
v.)	PRETRIAL ORDER
)	
WOODS ROGERS PLC, ET AL.,)	By: James P. Jones
)	United States District Judge
Defendants.)	

The jury trial of this case is scheduled for **January 14, 2020 through January 16, 2020**, in the Federal Courthouse at Abingdon, Virginia. Accordingly, it is **ORDERED** as follows:

1. A Final Pretrial Conference (PTC) will be held on **November 12, 2019, at 10:30 a.m.**, in Abingdon. Any motions in limine must be filed no later than **November 7, 2019**. The portions of any depositions sought to be excluded must be filed with the court along with the grounds asserted for such exclusions. Responses to any motions in limine must be filed no later than **November 12, 2019**. A separate motion in limine must be filed as to each ruling the party desires the court to make, and each motion in limine and each response thereto must include argument without any accompanying brief. All motions in limine will be heard at the PTC.

2. The court has standard preliminary and final jury instructions, a copy of which may be obtained from the court's web site, www.vawd.uscourts.gov. Other proposed jury instructions, as well as a proposed verdict form, must be filed no later than **December 16, 2019**. Each instruction must be set forth on a separate page and bearing a citation of authority in support of the instruction. The proposed instructions must be filed as a group together with a cover sheet in pleading form and with a certificate of service. A copy of the proposed jury instructions must be emailed at the time of filing in word processing format (not .pdf) to Judge Jones at jamesj@vawd.uscourts.gov.

4. The jury will consist of 12 persons. A list of the jurors to be called for the case is sent to the parties approximately a week prior to trial. Counsel will be permitted to conduct voir dire, after preliminary questions from the court. Following voir dire, any party having any challenge for cause should make known to the court that a matter outside the presence of the jury is to be taken up, in which case the challenges will be determined

by the court. Thereafter, the parties will take alternate written strikes on a single jury list, with each side making at least 3 strikes as required by law. No alternates will be used. If more of the panel is excused so as to not permit 12 jurors, a lesser number will be empanelled, provided the jury constitutes not less than 7 members. Jury selection is expected to take no more than two hours. After the jury is sworn, preliminary instructions will be given by the court. Jurors are told that they will be permitted to take notes.

5. Opening statements must summarize objectively the key facts, without argument. Each side's **opening statement should not exceed 30 minutes**. If there is a likely dispute as to the admissibility of any evidence or exhibit, counsel must omit it from the opening statement or advise opposing counsel of the intent to refer to such evidence or exhibit, so that opposing counsel may seek a ruling from the court.

6. Questions to witnesses and argument to the court must be made from the lectern. Counsel may approach the witness without leave of court if necessary to hand the witness a document or exhibit, but must promptly return to the lectern.

7. All witnesses will be excluded from the courtroom until called. Although the exclusion does not prevent counsel from talking with excluded witnesses during recesses about their expected testimony, there must be no disclosure of courtroom testimony given to the excluded witnesses by any person. Witnesses should be released from further attendance as soon as they are no longer needed. After testifying, a witness is deemed released unless counsel or the court promptly indicates that the witness is not so excused.

9. All objections and other remarks to the court must be made while standing. Objections must be succinct and limited, such as "objection, hearsay." If argument is needed, the court will so indicate. Side bar or bench conferences will not be held, and argument outside of the presence of the jury will normally take place only during regular recesses or before or after court sessions. Accordingly, counsel must anticipate any evidentiary questions or disputes and bring them to the attention of the court ahead of time.

10. Trial days will begin promptly at 9:00 a.m. and end at approximately 4:00 p.m. each day, with a lunch break and breaks in the morning and afternoon.

11. The court will later determine and advise the parties of the permitted length of closing arguments. Prior to closing argument the court will conduct a charge conference and advise counsel of the substance of the jury charge. The charge is given after closing argument and before the jury begins deliberations. Counsel will be given an opportunity

to make any objections to the charge on the record. The court will send with the jury a written copy of the charge for the jury's reference during deliberations.

14. The Jury Evidence Recording System (JERS) will likely be used in the trial of this case. JERS provides access by jurors to the exhibits, including documents, videos, and photos, during jury deliberations by their presentation on a large screen monitor in the jury deliberation room. JERS is not used to present evidence in the courtroom. JERS requires that counsel submit exhibits **no later than the Thursday before trial** in the form of electronic exhibit files on a USB drive, DVD, or CD. The instructions attached to this Order provide information for the preparation by counsel of the electronic exhibit files. Further discussion of this system will occurred at the PTC.

15. To the extent this Pretrial Order is inconsistent with any term of any prior order of the court, this Pretrial Order will supersede such term.

ENTER: October 29, 2019

/s/ James P. Jones
United States District Judge

JERS Instructions

The digital Jury Evidence Recording System (JERS) allows evidence admitted at trial to be easily viewed via a large screen monitor by the jury during deliberations. JERS reduces the need to handle physical evidence while allowing the jury to view evidence multiple times, play audio and video recordings, and zoom in on pictures and documents. JERS is NOT designed to present evidence in the courtroom.

SUBMITTING EXHIBITS TO THE COURT

Counsel must submit all proposed exhibits on a DVD, CD, or USB drive (“device”) **no later than the Thursday before trial**. The device must be labeled with the case title, case number and the name of the party for whom the exhibits are submitted. Each of the files contained on the device must be saved using the naming convention described below, and in the orientation (portrait or landscape) to ensure the greatest ease of viewing. It is the responsibility of counsel that exhibits used during trial coincide in exhibit number as the exhibits submitted on the device and are identical to the exhibits submitted on the device.

ACCEPTABLE FILE TYPES

- Documents: .pdf
- Images: .pdf, .jpeg, .bmp, .tif, .gif
- Video and audio recordings: .avi, .mpg, .mp3, .mp4, .wav, .wma, .wmv

REQUIRED NAMING CONVENTIONS

Exhibit files must be named using the following format:

exhibit number_exhibit description.file extension

Exhibits consisting of multiple subparts must be named using the following format:

exhibit number-exhibit subpart_exhibit description.file extension

Examples:

1-a_photo of store from east view.jpeg
1-b_photo of store from west view.jpeg
2_camera footage.wmv
3_contract.pdf

ADDITIONAL REQUIREMENTS

Counsel must provide an exhibit list with file names and descriptions to display for jury deliberations. The descriptions must be accurate and not argumentative. File names must not contain single or double quotation marks, en dash (–), em dash (—) or dots. Documents and images must not exceed file size of 50 MB.